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August 2, 2007

VIA ECFS

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Ex Parte Notification: WC Docket Nos. 04-440, 06-109, 06-125, 06-147

Dear Ms. Dortch:

Today, the undersigned and Brad Mutschelknaus, of Kelley Drye & Warren LLP, Heather Gold, of XO Communications, LLC, and Riley Murphy of NuVox Communications, met with Chairman Martin's Legal Advisor, Ian Dillner. At that meeting, we discussed and supported the pending motion for expedited order pending in WC Docket No. 04-440 and urged the Commission to deny the pending broadband services forbearance petitions pending in WC Docket Nos. 06-109, 06-125, and 06-147.

The attached documents were referred to during the meeting.

Respectfully submitted,



Genevieve Morelli

cc: Ian Dillner

PENDING BROADBAND FORBEARANCE PETITIONS

1. Verizon Telephone Companies (WC Docket No. 04-440)
Filed – Dec. 20, 2004
Deemed granted – Mar. 19, 2006
Motion for expedited order filed – Jul. 25, 2007
Comments due – Aug. 13, 2007
Replies due – Aug. 17, 2007
2. ASC of Anchorage, Inc. (WC Docket No. 06-109)
Filed - May 22, 2006
Extension granted – Apr. 23, 2006
Deadline – Aug. 20, 2007
3. Qwest Inc. (WC Docket No. 06-125)
Filed – Jun. 13, 2006
Extension granted – Jun. 8, 2007
Deadline – Sept. 11, 2007
4. AT&T Inc. (WC Docket No. 06-125)
Filed - Jul. 13, 2006
Extension granted – Jul. 11, 2007
Deadline – Oct. 11, 2007
5. BellSouth Corporation (WC Docket No. 06-125)
Filed – Jul. 20, 2006
Extension granted – Jul. 6, 2007
Deadline – Oct. 18, 2007
6. Embarq Local Operating Companies (WC Docket No. 06-147)
Filed – Jul. 26, 2006
Extension granted – Jul. 20, 2007
Deadline – Oct. 24, 2007
7. Frontier and Citizens Incumbent Local Exchange Carriers (WC Docket No. 06-147)
Filed – Aug. 4, 2006
Extension granted – Jul. 20, 2007
Deadline – Nov. 2, 2007

Broadband Forbearance

WC Docket Nos. 04-440

06-109

06-125

06-147

August 2, 2007

Broadband Forbearance

- Pending “me too” petitioners seek the same relief obtained by Verizon by operation of law when the Commission failed to take action on Verizon’s petition by the statutory deadline.
 - “Regarding broadband services, **ACS** seeks forbearance consistent with that granted to Verizon . . . on March 19, 2006.”
 - “**AT&T** here seeks all of the same relief that Verizon obtained . . . to the extent it did not already receive such relief when Verizon’s petition was deemed granted.”
 - “**Qwest** now seeks the relief granted to Verizon by operation of law.”
 - **BellSouth** . . . requests that the Commission grant BellSouth the same relief . . .”
 - Specifically, **Embarq** seeks relief . . . the same as granted Verizon in its forbearance petition.”
 - “[T]o the extent the relief granted to Verizon does not extend to **Frontier**, the Commission should expeditiously issue an order granting Frontier’s petition.”

Broadband Forbearance

- Verizon's petition sought forbearance from the application of Title II and *Computer Inquiry* rules "to any broadband services offered by Verizon."
- In a Feb. 7, 2006 *ex parte* letter, Verizon specified "two principal categories of services . . . for which [it was] seeking relief."
 - Packet-switched services capable of 200 kbps in each direction. Includes Frame relay services, ATM services, IP-VPN services, and Ethernet services.
 - Non-TDM based optical networking, optical hubbing, and optical transmission services.

Broadband Forbearance

- There is considerable uncertainty regarding the scope of the relief obtained by Verizon by operation of law.
 - BellSouth admits in its petition that “[i]n the absence of an explicit order, some uncertainty exists as to the exact scope of relief flowing from the Verizon petition.”
- The time has come for the Commission to address the Verizon petition on the merits.
 - The Commission has the authority to issue a written order.
 - The Commission now has a full complement of commissioners.

Broadband Forbearance

- The Commission should deny the Verizon broadband forbearance petition for failure to satisfy the requirements of Section 10.
 - The growing body of evidence that RBOC special access services are not competitive undermines Verizon's representations regarding the Section 10 standard.
 - Verizon's contention of a national broadband market is inconsistent with the Commission's special access and UNE forbearance determinations.
 - Enforcement is necessary to ensure that charges and practices are just, reasonable and non-discriminatory.

Broadband Forbearance

- At a minimum, the Commission should issue an order clarifying the scope of the relief granted to Verizon.
 - The Commission should expressly state that the relief granted to Verizon is limited to:
 - Frame Relay services, ATM services, IP-VPN services and Ethernet services.
 - Intellilight Broadband Transport, Verizon Optical Network, Optical Hubbing Service and Intellilight Optical Transport Service.
- The Commission should act prior to the statutory deadline in any pending “me too” forbearance docket.